

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of

Telephone Number Portability

**Warwick Valley Telephone Company
Petition for Waiver of Section 52.23(c)
of the Commission's Rules**

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CC Docket No. 95-116

To: Chief, Wireline Competition Bureau

PETITION FOR WAIVER

Pursuant to Sections 1.3, 1.925 and 52.23(e) of the Commission's Rules,¹ and the Commission's *Intermodal LNP Order*,² Warwick Valley Telephone Company (the "Company") hereby requests waiver of the November 24, 2003 implementation date requiring the Company to support wireline-to-wireless number portability ("intermodal porting"). As demonstrated herein, substantial and credible evidence exists that there are special circumstances that warrant departure from the November 24, 2003 date. Accordingly, and in compliance with the specific directives set forth in Section 52.23(e), the Company seeks an extension of time to support intermodal porting until May 10, 2004.³ In support thereof, the following is shown:

¹ 47 C.F.R. §§ 1.3, 1.925 and 52.23(e).

² In the Matter of Telephone Number Portability; CTIA Petition for Declaratory Ruling on Wireline-Wireless Porting Issues, CC Docket No. 95-116 at para. 7 (rel. Nov. 10, 2003) ("Intermodal LNP Order"). The Commission has stated that a carrier facing compliance issues with November 24, 2003 deadline may seek extension by filing a request for waiver. *Id.* at para. 30. Because this request for waiver is filed within sixty (60) days of the date of the November 24th deadline, a waiver of 47 C.F.R. § 52.23(e) is also requested to the extent necessary.

³ By seeking this extension of time, the Company does not waive any of its legal rights with respect to the *Intermodal LNP Order*, including, without limitation, with respect to seeking relief from a court of competent jurisdiction or the New York State Public Service Commission or the New Jersey Board of Public Utilities with respect to the obligations imposed upon it by the *Intermodal LNP Order*. As provided for in the *Intermodal LNP Order*, this request is limited solely to the technical infeasibility of the Company's compliance with the November 24th deadline.

I. The Company and Pending Intermodal Requests

The Company is a rural local exchange carrier that provides local exchange and exchange access services within Orange County, New York, and Sussex and Passaic counties in New Jersey. Two of these counties are located in MSAs among the largest 100 MSAs. Almost all of this service territory encompasses areas that are sparsely populated. The total population of the portions of the counties within the Company's service area, based on recent statistics, is approximately 25,000 in New Jersey and 25,000 in New York.

The Company received a request to implement number portability from Dobson Cellular Systems ("Dobson") dated September 15, 2003 seeking implementation of intermodal portability by May 24, 2004.⁴ The Company also received a request from Verizon Wireless to support intermodal portability. The most recent correspondence from Verizon Wireless seeks implementation by May 24, 2003. Sprint PCS sent the Company a request for information regarding number portability but did not send a request to implement number portability.⁵ The Company responded, questioning the validity of the requests.⁶ The Company received no response from the requesting CMRS carriers with respect to the questions raised regarding the requests. As further discussed below, the Company, like the wireline industry in general, did not understand the requests of the CMRS carriers to be a request for number portability enabling a customer to retain, at the same location, the use of the number. Accordingly, the Company did

⁴ Copies of the correspondence from wireless carriers is attached as Exhibit 1. Attachments to the correspondence will be provided upon request.

⁵ The Company has an interconnect arrangement with Sprint PCS. The Commission's *Intermodal LNP Order* requires a wireline company to implement number portability by November 24, 2003 if the company has a point of interconnection where the customer's wireline number is provisioned. Accordingly, out of abundance of caution, the Company seeks waiver of the November 24, 2003 deadline.

⁶ A copy of the correspondence sent to the wireless carriers is attached as Exhibit 2.

not act further on the requests prior to the November 10, 2003 release of the *Intermodal LNP Order*.

II. Clarification of the Company's Obligations to Support Intermodal Porting Now May Render Moot the Need for the Requested Waiver

The Company's switches are *not* located in one of the largest 100 MSAs. The Company does, however provide service to some customers located within an MSA that is among the 100 largest MSAs. The Company is otherwise similarly situated to those companies for which the deadline for complying with intermodal portability was extended until May 24, 2004.⁷

Number portability is implemented on a switch specific basis and not on the basis of the location of the customer.⁸ Accordingly, it does not appear that the Company is required by the *Intermodal LNP Order* to support intermodal number portability by November 24, 2003, because the Company's switch is outside of the largest 100 MSAs. The Company requests confirmation of this prior ruling and that the deadline applicable to its obligation to support the intermodal porting established in the *Intermodal LNP Order* is, in fact, May 24, 2004. The Company believes a good faith reading of the Order is consistent with both aspects of this request.

Accordingly, the Company requests this clarification which, if granted, would render this waiver request unnecessary at this time. Recognizing that it may not be practical for the Commission to issue the requested clarification prior to the November 24th deadline, however, the Company seeks waiver of the November 24, 2003 deadline out of an abundance of caution.

⁷ *Intermodal LNP Order* at para. 29.

⁸ See *In the Matter of Telephone Number Portability, First Memorandum Opinion and Order on Reconsideration*, 12 FCC Rcd 7236, 7314 (1997) (FCC determining not to disturb existing state procedures for limiting deployment of wireline LNP to requested switches within the MSA rather than switches serving subscribers within the MSA)

**III. Waiver is Warranted on the Basis of the
Company's Compliance with Section 52.23(e) Criteria**

The Company is and has been fully aware of its obligation established by Section 251 (b)(2) of the Communications Act of 1934, as amended (the "Act") with respect to the implementation of LNP; it is likewise aware of the Commission's Section 252 Subpart C rules regarding number portability and, specifically, implementation requirements. Prior to the receipt of the request for number portability from the requesting CMRS carrier, the Company had received no other requests for number portability, and, accordingly, had no basis for expending limited resources on the deployment of number portability. Given the set of circumstances surrounding the Commission's implementation of intermodal number portability, the Company has acted and continues to act in good faith to comply with the Commission's requirements. In compliance with Section 52.23(e), the Company sets forth the following information:

**A. Section 52.23(e)(1): The Facts Demonstrate why the
Company is Unable to Meet the Commission's Deployment Schedule**

The Company's switch vendor has not provided information regarding when necessary switch upgrades will be completed. Accordingly, the Company is unable at this time to estimate when it will be compliant. Company hereby commits to providing Commission with the quarterly updates as described herein and may need to seek additional waiver if necessary. In addition, the Company is not technically able to comply with what appear to be the requirements of the *Intermodal LNP Order* with respect to the transport of and "rating"⁹ of calls to a number ported to a wireless carrier.

⁹ Local exchange carriers do not "rate" their local exchange services.

As a result of the logistic realities, the Company has, in good faith, determined that it is not possible to implement and test the necessary switch-related changes prior to the November 24th deadline.

B. Section 52.23(e)(2): A Detailed Explanation of the Activities that the Carrier has Undertaken to Meet the Implementation Schedule Prior to Requesting an Extension of Time

In good faith, the Company attempted to meet the implementation schedule prior to requesting an extension of time. The Company has again requested specific information from the requesting wireless providers to ensure specific coordination with them regarding the Company's porting activities when and if a request is made to port an end user's telephone number. Prior to the issuance of the *Intermodal LNP Order*, the Company received either no answer or a non-responsive answer to its inquiries from the requesting wireless provider, or received generic documents regarding level service arrangements. The Company did provide preliminary information to requesting carriers upon request including information regarding switch locations and capabilities.

As discussed, prior to the issuance of the *Intermodal LNP Order*, the Company, like other similarly situated carriers in general, did not take additional action to implement number portability because of the understanding that the CMRS carrier request exceeded the Commission's expectations and the statutory requirements set forth in the Act. After the issuance of the *Intermodal LNP Order*, the Company has proceeded with good faith efforts toward the implementation of number portability including the commitment of the necessary financial resources required to acquire and deploy the required switch upgrades. Additional inquiries to the requesting wireless provider have been undertaken to ensure proper coordination,

and the Company is working with its switch vendor to go forward with the necessary switch changes

C. Section 52.23(e)(3): An Identification of the Particular Switches for Which the Extension is Requested

The particular switches for which the extension is requested are:

FLRDNYXARS0
PNISNYXARS0
WRWKNYXADS0
HGLKNJXVDS1
UGLKNJXVRS0

D. Section 52.23(e)(4): The Time in Which the Carrier Will Complete Deployment in the Affected Switches

The Company will attempt to complete deployment in the affected switches by May 10, 2004, six months after the issuance of the Commission's *Intermodal LNP Order* in which the Commission provided guidance of its intermodal porting requirements. The Company notes that its implementation schedule is dependent upon its switch vendor, and coordination and testing between it and the requesting wireless provider. While the implementation of the necessary switch changes will technically enable the provision of number portability, the Company also remains concerned that technical compliance with the directives of the *Intermodal LNP Order* regarding the treatment of calls from the Company's network to a number ported to a wireless carrier is not technically feasible in the absence of the deployment of a physical connection of the wireless carrier to the Company's network.¹⁰

¹⁰ The relief requested herein, however, is limited to the request for a waiver of the implementation time in order to afford the company the time necessary to implement the necessary switch changes. The Company anticipates that the Commission will subsequently address the general deployment concerns regarding calls to a ported number in other proceedings, and respectfully reserves the right to seek additional relief to the extent necessary to ensure its full compliance with the Commission's applicable

E. Section 52.23(e)(5): A Proposed Schedule with Milestones for Meeting the Deployment Date

The Company will provide the Commission with quarterly progress reports during the period within which the extension is provided. Those reports will provide the Commission with all relevant progress, the dates of the purchase and installation of the upgrades, and a summary of the steps taken and to be taken regarding the Company's ability to support intermodal porting.

IV. Additional Facts Supporting the Company's Request for Waiver

As set forth above, the Company meets all relevant criteria established in Section 52.23(e) to support the Company's waiver request. The Company respectfully submits that additional support for the requested waiver is found within the context of the Company's good faith approach to its porting obligations.

The Company, like most (if not all) providers of wireline local exchange services, did not expect that its statutory obligation to provide number portability extended to a CMRS request for number portability under the existing Part 52 rules unless the requesting CMRS carrier confirmed that the number would be used by the telecommunications user "at the same location" where the customer used the number prior to portability.¹¹ The record before the Commission prior to the *Intermodal LNP Order* bears out the existence of this general industry understanding.¹²

rules.

¹¹ 47 U.S.C. § 153(30).

¹² See, e.g., Comments of CTIA, CC Docket No. 95-116, filed May 13, 2003 at 5; Comments of United States Cellular Corporation, CC Docket No. 95-116, filed February 26, 2003 at 4; Comments of Verizon Wireless, CC Docket No. 95-116, filed June 13, 2003; Comments of Cingular Wireless, LLC, CC Docket No. 95-116, filed June 13, 2003 at 25; Comments of AT&T Wireless Services, Inc., CC Docket No. 95-116, filed on June 24, 2003 at 1. In fact, the *Intermodal LNP Order*, prior FCC actions, and public statements from FCC decision-making personnel demonstrate the Commission's awareness of this general understanding. See e.g., *Intermodal LNP Order* at para. 1; the Commission's Daily Digest announcing the issuance of the *Intermodal LNP Order* states: "FCC CLEARS WAY FOR LOCAL NUMBER PORTABILITY BETWEEN WIRELINE

In hindsight, the Company also took misplaced comfort in the public statements from FCC decision-making staff that the issues regarding intermodal porting would be resolved well in advance of the November 24, 2003 deadline. In responding to questions regarding FCC action on pending issues regarding number portability, John Muleta, Chief of the FCC's Wireless Telecommunications Bureau stated, "We'll do it soon. . . . We've said that we will address it well in advance of the Nov. 24 LNP deadline."¹³ As late as October 7, 2003, the FCC likewise made clear that its decisions to date did not address intermodal porting issues:

[W]e do not here address the issues related to wireline-wireless porting. Issues associated with wireline-wireless porting will be addressed in a separate item, and we affirm that none of the actions taken here today bind the Commission in any way in taking future action on the implementation of wireline-wireless porting.¹⁴

As the totality of the circumstances demonstrate, the Company acted in good faith in response to the number portability request of the CMRS carrier, and had a reasonable basis to await the Commission's directives. The Company held a reasonable good faith expectation that the uncertainty and associated issues surrounding the matter of intermodal porting would be resolved in sufficient time to permit the Company to deploy intermodal number portability within a time frame consistent with the six month period established in the Commission's rules.

Because of the acknowledged uncertainty throughout the industry regarding the intermodal portability issues, and the Commission's promised direction, the Company had no expectation that a strict reading of the Commission's anticipated decision could possibly require the Company to support intermodal porting by November 24, 2003. The Company's

AND WIRELESS CARRIERS." The existence of uncertainty, confusion and the need for clarification was well known and understood.

¹³ FCC Officials Press Wireless Firms to Move Ahead on LNP Deployment," TR Daily, Sept. 8, 2003 ed.

¹⁴ In the Matter of Telephone Number Portability – Carrier Requests for Clarification of Wireline-Wireless Porting Issues: Memorandum Opinion and Order, CC Docket No. 95-116, FCC 03-237 at para.

circumstances are dissimilar to those of other carriers that have previously received requests to deploy wireline to wireline portability because the Company has never previously received a request for wireline to wireline portability. Accordingly, those companies that already deployed the hardware changes to comply with prior requests may very well be technically capable of supporting intermodal portability on November 24, 2003. For all of the reasons provided above, the Company is not technically capable of meeting this deadline.

V. Conclusion

As demonstrated by its actions, the Company has not shirked its obligation to respond to a *bona fide* request to implement number portability. The Company acted prudently prior to the Commission's provision of direction in the *Intermodal LNP Order*. The Company did not ignore any request for number portability and it provided all information sought by any requesting carrier. Subsequent to the provision of direction by the Commission provided in the *Intermodal LNP Order*, the Company has undertaken efforts to deploy number portability.¹⁵

As demonstrated above, and in the context of the totality of the circumstances leading up to the issuance of the Commission's *Intermodal LNP Order*, the Company has demonstrated that it meets the Section 52.23(e) criteria to support its request for waiver and extension of the November 24, 2003 number portability implementation date. The Company respectfully submits that a grant of this request under these specific facts and circumstances is consistent with the Commission's recognition that its consideration of requests for waivers of the November 24th

21 (rel. Oct. 7, 2003).

¹⁵ Factually, no requesting carrier has indicated to the Company an actual specific intent to port a number on November 24, 2003. The Company will contact the requesting carrier regarding this waiver request, and offer to work toward a mutual coordination of deployment.

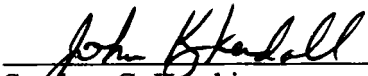
deadline be accomplished in “such manner as will best conduce to the proper dispatch of business and to the ends of justice.”¹⁶

For the reasons stated herein, the Company requests that the Commission grant it until May 10, 2004 with respect to its obligations to support intermodal porting as provided for in the Commission’s *Intermodal LNP Order*.

Respectfully submitted,

Warwick Valley Telephone Company

By: _____


Stephen G. Kraskin
~~Thomas J. Moorman~~
John Kuykendall
Kraskin, Lesse & Cosson, LLC
2120 L Street, N.W., Suite 520
Washington, D.C. 20037
Tel. No. (202) 296-8890
Fax No. (202) 296-8893

November 21, 2003

¹⁶ 47 U.S.C. §154(j).

EXHIBIT 1



DOBSON
CELLULAR
SYSTEMS

September 15, 2003

Richard Dzierzek
Warwick Valley Telephone Company – NY
47 Main Street
Warwick, NY 10990

Re: Inquiry Pursuant to 47 C.F.R. §§ 52.23(b)(2)(iii), 52.31(a)(1)(iii)
and/or Bona Fide Request for Local Number Portability

Dear Richard:

Attached is a list of the rate centers in which you provide service where Dobson Cellular Systems, Inc., and/or its affiliates, American Cellular Corporation and Sygnet Communications, Inc., (d/b/a Cellular One) also provide service. For each of these rate centers, please provide, pursuant to 47 C.F.R. sections 52.23(b)(2)(iii) and/or 52.31(a)(1)(iii), a list identifying the rate centers in which you provide local number portability (LNP) and the rate centers where you do not provide LNP. For rate centers where you do not yet provide LNP, please specify whether you have already received a bona fide request from another carrier to provide LNP, and the date on which you will provide LNP in that rate center.

- * In the event you have not yet received a bona fide request to provide LNP in any of these rate centers, please consider this letter a request for portability pursuant to 47 C.F.R. sections 52.23(b)(2) and/or 52.31(a)(1). Portability is requested on or before May 24, 2004.

Your response to this inquiry is appreciated and requested within 30 days of the date of this letter. Your response, as well as any inquiries, should be sent to the undersigned.

Sincerely,

Sean O'Hara
Special Project Coordinator
330-509-6510 – Voice
330-509-3620 - Fax

Attachment [company-specific rate center list – should identify rate centers and MSAs. For wireline recipients, you also must provide the switch CLLI code.]

Middletown
NY -

WOT CLEC
845 956
845 703



Verizon Wireless
Interconnection/Numbering/Mandates
2785 Mitchell Drive MS 7-1
Walnut Creek, CA 94598

October 22, 2003

Warwick Valley Telephone Co.
47 Main Street
Warwick, NY 10990

Re: Wireline-Wireless Local Number Portability Agreement

Dear Richard Dzierzek:


Verizon Wireless would like to establish an Intercarrier Communications Process (ICP) for porting of numbers between Verizon Wireless and Warwick Valley Telephone Co.. We need to reach agreement quickly given the pending FCC deadline.

Attached is a proposed service level agreement which we believe will facilitate quick, reliable, and seamless porting for our respective customers.

Please let me know your availability, so that we can set a time for a meeting. Please direct your response to our single point of contact, Sharon Cañas, who can be reached at 925-279-6122 or Sharon.Canas@VerizonWireless.com. I look forward to working with you to develop an efficient and effective intercarrier porting process between Verizon Wireless and Warwick Valley Telephone Co..

Thank you for your immediate attention to our request.

Sincerely,

for 
Bonnie R. Petti
Executive Director
Network Operations Headquarters Staff

BP:sc

Enclosure



August 4, 2003

RICHARD DZIERZEK
WARWICK VALLEY TELEPHONE CO.
47 MAIN STREET
WARWICK, NY 10990

Dear RICHARD DZIERZEK:

In July, 2002, the FCC mandated that all carriers in the top one hundred (100) Metropolitan Statistical Areas (or MSAs) implement Wireless Local Number Portability (WLNP) by November 24, 2003. Pursuant to this FCC mandate, Sprint PCS (SPCS) has identified you as a potential Trading Partner. As such, SPCS would like to exchange the necessary information to allow porting to be tested and placed into production between us on November 24, 2003. In addition, SPCS is willing to negotiate an Operating Agreement with you as a means of finalizing a mutually acceptable porting arrangement on a separate schedule and through a different mechanism.

The enclosure contains SPCS's contact and connectivity information needed to initiate porting. SPCS requests that you provide your contact and connectivity information and return same within ten (10) business days. Please return to *Peter Jacklin* or *Hal Weintrub*, via FAX (as detailed below). If you prefer email correspondence, please contact either individual for a "soft copy" of the file.

The individuals responsible for exchanging Trading Partner porting information and who will be contacting you in the near future are:

Peter Jacklin
Phone: (913) 307-7356
FAX: (913) 307-7447
pjackl01@sprintspectrum.com

--or--

Hal Weintrub
Phone: (913) 307-7379
FAX: (913) 307-7447
hweint01@sprintspectrum.com

The contact to initiate negotiations of an Operating Agreement between our companies is:

Jack Weyforth
Phone: (913) 315-9591
FAX: (913) 794-0720
jweyfo01@sprintspectrum.com

In general, SPCS follows industry guidelines for Wireless-to-Wireless and Wireless-to-Wireline porting. This includes industry-standard modes of connectivity, forms, form versions, and business rules.

Thank you very much and we look forward to establishing a porting relationship with you.

Sincerely,

A handwritten signature in black ink, appearing to read "Jack Weyforth", written over a horizontal line.

Jack Weyforth
Manager, Carrier & Interconnection Management
6450 Sprint Parkway
KSOPHN0212-2A411
Overland Park, KS 66251

Encl: Trading Partner Profile for Porting

EXHIBIT 2

KRASKIN, LESSE & COSSON, LLC
ATTORNEYS AT LAW
TELECOMMUNICATIONS MANAGEMENT CONSULTANTS

2120 L Street, N.W., Suite 520
Washington, D.C. 20037

Telephone (202) 296-8890
Telecopier (202) 296-8893

October 14, 2003

VIA OVERNIGHT DELIVERY

Mr. Sean O'Hara
Special Project Coordinator
Dobson Cellular Systems
3910 South Avenue
Youngstown, Ohio 44512

Dear Mr. O'Hara:

Our firm represents Warwick Valley Telephone Company ("Warwick"), a local exchange company ("LEC") that has received correspondence from Dobson Cellular Systems ("Dobson") regarding number portability. Your letter seeks information pursuant to Section 52.23(b)(2)(iii) of the Commission's Rules.¹ Accordingly, attached please find a list of Warwick's switches indicating whether or not they are number portable-capable.

Having analyzed the letter and accompanying form (collectively, the "mailing"), we question whether the mailing constitutes a valid request for number portability. In addition, the Dobson correspondence does not appear to request service provider portability that would enable customers of these LECs to retain their existing telephone numbers "at the same location" as the Act and FCC Rules require.²

The mailing is comprised of a generic form with no carrier or market information indicated. Accordingly the mailing fails to "identify the discrete geographic area covered by the request" as required by FCC Rules.³ The mailing fails to indicate whether Dobson provides

¹ 47 C.F.R. § 52.23(b)(2)(iii). Please be advised that this Rule requires LECs to make available upon request "a list of its switches for which number portability is requested and a list of its switches for which number portability has not been requested" and does not require identification of rate centers as stated in your letter. *Id.*

² See 47 U.S.C. § 153(30); 47 C.F.R. § 52.21(k).

³ See *In the Matter of Numbering Resource Optimization; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Telephone Number Portability Fourth Report and Order in CC Docket No. 99-200 and CC Docket No. 95-116, and Fourth*

service within the company's LEC service area. The rules specify that number portability is required only if requested by "another telecommunications carrier in areas in which that telecommunications carrier is operating or plans to operate."⁴ Furthermore, there is no local interconnection in place between Dobson and Warwick, demonstrating the absence of Dobson's local presence and any indication of its "plans to operate" within the area.


The Act and the FCC have defined the obligation of a LEC to provide number portability that enables the "users of telecommunication services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another."⁵ If you have facts to indicate that Dobson plans to ensure that the customer retains his/her telephone number "at the same location" please provide us with those facts and we will reevaluate our analysis of the Dobson request on the basis of these facts.

While we and our client recognize that pursuant to Section 252 of the Act, carriers are free to "negotiate and enter into a binding agreement with the requesting telecommunications carrier or carriers without regard to the standards set forth in subsections (b) and (c) of Section 251,"⁶ our client at this time has no need or desire to negotiate an agreement that goes beyond the standards the FCC has set forth pursuant to Section 251. As noted, the geographic portability that would result from the Dobson request has not been required by the FCC under Section 251.

Again, we would be pleased to review any additional facts Dobson may offer to demonstrate that its request is not for geographic number portability.

Sincerely,

Kraskin/Lesse & Cosson, LLC

By: 

Further Notice of Proposed Rulemaking in CC Docket No. 99-200, CC Docket Nos. 99-200, 96-98, 95-116 (rel. June 18, 2003) at para. 10.

⁴ 47 C.F.R. § 52.23(c).

⁵ 47 U.S.C. § 153(30) (emphasis supplied); 47 C.F.R. § 52.21(k) (emphasis supplied). The FCC has distinguished this "service provider portability" from "location portability," a much different form of portability that the FCC has determined is not required by statute. "Location portability" is defined as "the ability of users of telecommunications services to retain existing telecommunications numbers without impairment of quality, reliability, or convenience when moving from one physical location to another." 47 C.F.R. § 52.21(i) (emphasis supplied).

⁶ 47 U.S.C. § 252(a)(1).

List of Switches for Warwick Valley Telephone Company

Switch CLI

Number Portable-Capable

WRWKNYXADS0
HGLKNJXVDS1
PNISNYXARS0
FLRDNYXARS0
UGLKNJXVRS0

Yes
No
Yes
Yes
No

KRASKIN, LESSE & COSSON, LLC
ATTORNEYS AT LAW
TELECOMMUNICATIONS MANAGEMENT CONSULTANTS

2120 L Street, N.W., Suite 520
Washington, D.C. 20037

Telephone (202) 296-8890
Telecopier (202) 296-8893

November 7, 2003

VIA OVERNIGHT DELIVERY

Linda Godfrey
Interconnection, Numbering and Mandates
Verizon Wireless
2785 Mitchell Drive
Walnut Creek, CA 94598

Dear Ms. Godfrey:

Our firm represents Warwick Valley Telephone Company ("Warwick"), a local exchange carrier that has received correspondence from Verizon Wireless regarding number portability. Having analyzed the letter and accompanying form (collectively, the Verizon Wireless mailing") sent to this company, we question whether the mailing constitutes a valid request for number portability. Additionally, the Verizon Wireless correspondence does not request service provider portability that would enable customers of this LEC to retain its existing telephone number "at the same location" as the Act and FCC Rules require.¹

The mailing seeks only switch information rather than request the implementation of number portability.² The process of responding to the information request has been "simplified" by Verizon Wireless by allowing carriers to update the attached form, which has been provided for this purpose. This attachment is comprised of a generic form with no carrier or market information indicated and a spreadsheet containing the switch information referenced in the letter. Accordingly, the mailing fails to "specifically request portability" and "identify the discrete geographic area" as required by FCC Rules.³

¹ See 47 U.S.C. § 153(30); 47 C.F.R. § 52.21(k).

² According to the letter, the purpose of the mailing is pursuant to a specific FCC Rule which requires carriers to provide, upon request, "a list of their switches for which provisioning of number portability has been requested (and therefore provided) and a list of their switches for which provisioning of number portability has not been requested." Please be advised that Warwick are in the process of verifying the switch information that Verizon Wireless provided on the attached form and will be responding to the switch information request when the company has completed its review.

³ See *In the Matter of Numbering Resource Optimization; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Telephone Number Portability;*

The Act and the FCC have defined the obligation of a LEC to provide number portability that enables the "users of telecommunication services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another."⁴ If you have facts to indicate that Verizon Wireless plans to ensure that the customer retains his/her telephone number "at the same location" please provide us with those facts and we will reevaluate our analysis of the Verizon Wireless request on the basis of these facts.

While we and our client recognize that pursuant to Section 252 of the Act, carriers are free to "negotiate and enter into a binding agreement with the requesting telecommunications carrier or carriers without regard to the standards set forth in subsections (b) and (c) of Section 251,"⁵ our client at this time has no need or desire to negotiate an agreement that goes beyond the standards the FCC has set forth pursuant to Section 251. As noted, the geographic portability that would result from the Verizon Wireless request has not been required by the FCC under Section 251.

Again, we would be pleased to review any additional facts Verizon Wireless may offer to demonstrate that its request is not for geographic number portability.

Sincerely

Kraskin, Lesse & Cosson, LLC

By: 

Fourth Report and Order in CC Docket No. 99-200 and CC Docket No. 95-116, and Fourth Further Notice of Proposed Rulemaking in CC Docket No. 99-200, CC Docket Nos. 99-200, 96-98, 95-116 (rel. June 18, 2003) at para. 10 ("Requesting telecommunications carriers must specifically request portability, identify the discrete geographic area covered by the request, and provide a tentative date by which the carrier expects to utilize number portability to port prospective customers").

⁴ 47 U.S.C. § 153(30) (emphasis supplied); 47 C.F.R. § 52.21(k) (emphasis supplied). The FCC has distinguished this "service provider portability" from "location portability," a much different form of portability that the FCC has determined is not required by statute. "Location portability" is defined as "the ability of users of telecommunications services to retain existing telecommunications numbers without impairment of quality, reliability, or convenience when moving from one physical location to another." 47 C.F.R. § 52.21(i) (emphasis supplied).

⁵ 47 U.S.C. § 252(a)(1).

KRASKIN, LESSE & COSSON, LLC
ATTORNEYS AT LAW
TELECOMMUNICATIONS MANAGEMENT CONSULTANTS

2120 L Street, N.W., Suite 520
Washington, D.C. 20037

Telephone (202) 296-8890
Telecopier (202) 296-8893

October 14, 2003

VIA OVERNIGHT DELIVERY

Mr. Jack Weyforth
Manager, Carrier & Interconnection Management
Sprint PCS
6450 Sprint Parkway
Mailstop: KSOPHN0212-2A411
Overland Park, Kansas 66251

Dear Mr. Weyforth:

Our firm represents Warwick Valley Telephone Company ("Warwick"), a local exchange company ("LEC") that has received correspondence from Sprint PCS seeking "contact and connectivity information needed to initiate porting" ("Information Request"). The FCC's orders and rules require local exchange carriers to implement number portability only "in switches for which another carrier has made a specific request."¹ Because no such request has been received from Sprint PCS, Warwick is under no obligation to implement number portability or provide information for such purposes.

The Information Request itself does not constitute a bona fide request for number portability. FCC rules require that requests to port must "specifically request portability" and "identify the discrete geographic area covered by the request."² The Information Request does not meet these criteria.

¹ See, e.g., *In the Matter of Telephone Number Portability: First Memorandum Opinion and Order on Reconsideration*, 12 FCC Rcd 7236, 7273 (1997); 47 C.F.R. § 52.23(c).

² See *In the Matter of Numbering Resource Optimization; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Telephone Number Portability: Fourth Report and Order in CC Docket No. 99-200 and CC Docket No. 95-116, and Fourth Further Notice of Proposed Rulemaking in CC Docket No. 99-200*, CC Docket Nos. 99-200, 96-98, 95-116 (rel. June 18, 2003) at para. 10.

Mr. Jack Weyforth
October 14, 2003
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In addition, the Sprint PCS correspondence does not confine its request to service provider portability that would enable customers of these LECs to retain their existing telephone numbers "at the same location" as the Act and FCC Rules require.³ The Act and the FCC have defined the obligation of a LEC to provide number portability that enables the "users of telecommunication services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another."⁴ If you have facts to indicate that Sprint PCS plans to ensure that the customer retains his/her telephone number "at the same location" please provide us with those facts and we will reevaluate our analysis of the Sprint PCS request on the basis of these facts.

Sincerely,

Kraskin, Lesse & Cosson, LLC

By: 

cc: Fawn Romig

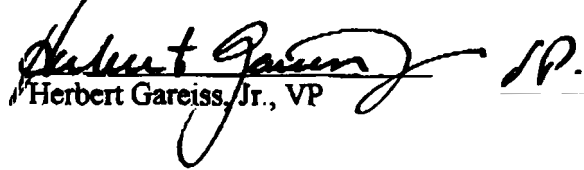
³ See 47 U.S.C. § 153(30); 47 C.F.R. § 52.21(k).

⁴ 47 U.S.C. § 153(30) (emphasis supplied); 47 C.F.R. § 52.21(k) (emphasis supplied). The FCC has distinguished this "service provider portability" from "location portability," a much different form of portability that the FCC has determined is not required by statute. "Location portability" is defined as "the ability of users of telecommunications services to retain existing telecommunications numbers without impairment of quality, reliability, or convenience when moving from one physical location to another." 47 C.F.R. § 52.21(i) (emphasis supplied).

DECLARATION OF HERBERT GAREISS, JR.

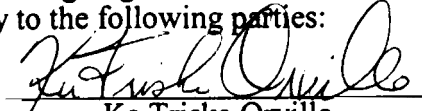
I, Herbert Gareiss, Jr., Vice President of Warwick Valley Telephone Company do hereby declare under penalties of perjury that I have read the foregoing "Petition for Waiver" and that the facts stated therein are true and correct, to the best of my knowledge, information, and belief.

Date: November 21, 2003


Herbert Gareiss, Jr., VP

CERTIFICATE OF SERVICE

I, Ka Triska Orville, of ~~Kraskin~~, Lesse & Cosson, LLC, 2120 L Street, NW, Suite 520, Washington, DC 20037, do hereby certify that a copy of the foregoing "Petition for Waiver" was served on this 21st day of November 2003, via hand delivery to the following parties:


Ka Triska Orville

William Maher, Chief
Wireline Competition Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Cheryl Callahan, Assistant Chief
Telecommunications Access Policy Division
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